

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

| | | |
|---------------------------------|---|-------------------------|
| BOARD OF TRUSTEES OF THE |) | |
| NORTHERN ILLINOIS BENEFIT FUND, |) | |
| BOARD OF TRUSTEES OF THE |) | |
| NORTHERN ILLINOIS PENSION FUND, |) | |
| BOARD OF TRUSTEES OF THE |) | |
| NORTHERN ILLINOIS EDUCATION |) | |
| FUND, BOARD OF TRUSTEES OF |) | No. 08 C 2501 |
| THE NORTHERN ILLINOIS |) | |
| RETIREMENT FUND, |) | Judge Castillo |
| |) | |
| Plaintiffs, |) | Magistrate Judge Ashman |
| |) | |
| v. |) | |
| |) | |
| THOMAS H. LITVIN CO., |) | |
| An Illinois Corporation, |) | |
| |) | |
| Defendant. |) | |

MOTION FOR ORDER OF DEFAULT AND AUDIT

Plaintiffs, by one of their attorneys, DONALD D. SCHWARTZ, PHILIP BRZOZOWSKI and ARNOLD and KADJAN, pursuant to F.R.C.P. 55, respectfully request this Honorable Court to enter an Order of Default as to liability in favor of Plaintiffs and against Defendant, THOMAS H. LITVIN CO., an Illinois Corporation,

In support thereof, Plaintiffs state as follows:

1. This case was filed on May 1, 2008.
2. This Court entered an Order that Defendant submit to an audit for the period November 1, 2004 through the present.
3. The Defendant has failed to abide by such order despite numerous requests by Plaintiffs.
4. Defendant was served with Summons and Complaint on May 29, 2008 as shown on the return of service previously filed.

5. In excess of 20 days have expired since Service of Process, however, Defendant has failed to file an answer or otherwise plead.

WHEREFORE, Plaintiffs move this Court to:

1. Enter an Order of Default against Defendant.
2. Order Defendant to submit its records for an audit for the period November 1, 2004 through to the present within 14 days.

BOARD OF TRUSTEES OF THE
NORTHERN ILLINOIS BENEFIT FUND,
et al.

By: s/ Philip Brzozowski
One of Its Attorneys

Donald D. Schwartz
Philip Brzozowski
ARNOLD AND KADJAN
19 W. Jackson Boulevard
Chicago, Illinois 60604
(312) 236-0415

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

| | | |
|---------------------------------|---|-------------------------|
| BOARD OF TRUSTEES OF THE |) | |
| NORTHERN ILLINOIS BENEFIT FUND, |) | |
| BOARD OF TRUSTEES OF THE |) | |
| NORTHERN ILLINOIS PENSION FUND, |) | |
| BOARD OF TRUSTEES OF THE |) | |
| NORTHERN ILLINOIS EDUCATION |) | |
| FUND, BOARD OF TRUSTEES OF |) | No. 08 C 2501 |
| THE NORTHERN ILLINOIS |) | |
| RETIREMENT FUND, |) | Judge Castillo |
| |) | |
| Plaintiffs, |) | Magistrate Judge Ashman |
| |) | |
| v. |) | |
| |) | |
| THOMAS H. LITVIN CO., |) | |
| An Illinois Corporation, |) | |
| |) | |
| Defendant. |) | |

ORDER

THIS CAUSE coming on to be heard on Motion of Plaintiffs for entry of Default against Defendant and for an Order requiring Defendant to turn over their books and records for audit; the Court finds as follows:

1. The Complaint was filed herein on May 1, 2008.
2. Process has been served upon Defendant, THOMAS H. LITVIN CO.
3. Defendant has filed no answer or other pleadings within the time provided by law.

IT IS HEREBY ORDERED:

1. Defendant is hereby defaulted and Judgment as to liability is entered against him and in favor of Plaintiffs.
2. Defendant is ordered to permit, within 14 days, an audit of his books and records by Plaintiffs' auditor. The audit will cover the period from November 1, 2004 to

the present.

3. Defendant is ordered to produce the following records beginning as of November 1, 2004 for examination by Plaintiffs' auditor.
 - A. All cash disbursements journals;
 - B. All individual payroll records;
 - C. All time records which are the basis of the above-mentioned individual payroll records;
 - D. All State unemployment tax returns as requested by the Trustees;
 - E. All records showing Defendants' employees nature and classification of work, membership of those employees in, or contributions by Defendants on their behalf to, other trades, crafts, or fringe benefit funds.

DATED: _____

ENTER: _____
HONORABLE JUDGE CASTILLO

DONALD D. SCHWARTZ
PHILIP BRZOZOWSKI
ARNOLD AND KADJAN
19 W. Jackson Boulevard
Chicago, Illinois 60604
(312) 236-0415